IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8974 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UMABEN M DESAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8974 of 2000

MR KS JHAVERI for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1

MS KJ BRAHMBHATT for Respondent No. 2-3

MR MITUL K SHELAT for Respondent No. 4

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/07/2001

ORAL JUDGEMENT

1. Rule. Mr. Uday Bhatt, learned A.G.P. appearing on behalf of the State Government, waives

service of Rule, Ms. K.J. Brahmbhatt waives service of rule for respondent nos. 2 and 3 and Mr. Shelat waives service of rule on behalf of respondent no. 4. By consent of parties, this matter is taken up for final hearing.

2. It is the case of the petitioner that the petitioner was initially appointed as Demonstrator in the respondent no.3 college. Thereafter, in August, 1979 she was appointed as Lecturer. The State Government issued resolution on 24th April, 1990 to the effect that those Lecturers / Professors who will retire considering the date of birth falling in between terms, will be entitled to continue until the end of the academic term. Thereafter, by another resolution dated 11th December, 1990 the State Government prescribed the date of retirement of the Lecturers/Professors of University/non Government Colleges to be 31st October and 14th June. It was also decided that those who are serving and whose date of birth fall between 14th June and 31st October will be entitled to continue in service up to the term, and those Lecturers whose date of birth is between 31st October and 14th June are entitled to continue till 14th June i.e. till the end of the academic term. An affidavit-in-reply is filed by the respondent and the corrigendum dated 24.04.1990 issued by the State Government is taken on record. So far as the retirement benefit is concerned, the same is required to be calculated as per the corrigendum dated 24th April, 1990 which states as under;

"Teaching staff should be continued till the end of the term but the services rendered after superannuation retirement till the end of the term shall not be counted for the purpose of increment, pension and other pensionary benefits. It is so resolved"

The date of birth of the petitioner is 06.09.1938. She started serving from 21.07.1969, and her date of superannuation is 05.07.2000, but as per the corrigendum the petitioner was entitled to serve up to 31st October, 2000. It is clarified in the corrigendum that so far as the retirement dues and other pensionary benefits are concerned the services rendered after superannuation / retirement till the end of the term shall not be counted. Therefore, the petitioner will not be entitled to the retirement benefits of the extended period. Rule is made absolute to the aforesaid extent with no orders as to costs.

(P.B. MAJMUDAR,J.)

siji